Title of Research: - Channelization of social media through cyber law and its enforcement challenges in India

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Statement of Problem and the Background information on the topic

Today's era is of information, communication, instant transmission of information, connectivity, but with all these things new problem has arisen in technically equipped society. One can understand the efficacy and impact of social media in everyone's life in present state, as it is highly useful in the world of communication and technology, where we want to transmit instantly the information, communication and to connect with the different people from different places with one another. But the flipside of social media is becoming too dark, as it interferes in ones liberty, peace and sometime takes away someone's life. These technological inventions and aids should be taken to create life in more comfortable manner and not to get disturb because of it. Development itself and changes through the development are considered for the betterment of the society and for the people encompasses in it, and not to get distract or disturb of someone's life or liberty.

One could say the social media reached to its heights of misuse when it has led the life of 14 years child by compelling to commit suicide while playing online Game (Blue Whale Game), and surprisingly law and its enforcement machinery showing its inability to combat the same. Many questions are going to arise now, that where these social media and technology will take further to our society.

It is acceptable that nothing is permanent in this world except the change. But the changes should be positive for the progression, development of the society and people who are living in it. Sometimes changes going to occur in society may not be perpetual but its impact or repercussions on one's life sometimes, may remain forever and his whole life will be ruin. If in society there is no peace, harmony, comfort can we say the society is welfaristic society? Development and progress in any society, it should maintain peace and comfort in society. Same is the case with our Cyber World and use social media, which is now so called 'online harassment'.

Objectives

1. To evaluate the efficacy and adequacy of the existing social media law and regulatory framework in India.

2. To know about the present challenges created due to over use of social media through mobile and gadgets.
3. To study and evaluate the existing governmental cyber policies (Like, Digital India) and the flaws in it like infrastructural facilities available in India to implement the same.
4. To study the judicial decisions and judicial approach with reference to social media law and problems in adjudication of social media crime.
5. To know more about the reasons behind the commission of social media crime and its associated form of crimes, and to suggest measures for it.
6. To make a comparative study of present Cyber law in India and in International regime and to make the suggestion accordingly.
7. To study and know about the challenges in implementation and execution of existing social media law and to suggest measures for the same.
8. To study and describe about the implications of online harassment affected people and its repercussions on individual's life.
9. To study & to make suggestions and recommendations about precautionary measures from the protection of social media crime and online harassment.
10. To know more about the safety measures while using social media through smart phones and gadgets etc.
11. To suggest measures for the proper use of social media especially among the adolescent and youngsters. To suggest the measures for creation of awareness among the adolescent as to what acts constitutes crime and the implications of their act while using social media.

Scope of Study

Considering present condition of utilizing the internet services, social media, and gadgets like mobile it seems that these are been misused rather than its effective use. This research paper has been undertaken to study the current situation of Information, communication and technology in today's social context, specifically Game zone, Facebook, Twitter, LinkedIn, Google+, Youtube, Pinterest, Flickr, Snapchat, Instagram, , messenger, whatsapp and their repercussions and interferences, disturbances in personal life. Here I would also like to study the existing laws which put censorship, provide penalties and Punishment on social media and IT related offences.

This research study also focuses on what are loopholes in existing law and how to combat with these problems. To maintain the social order and balancing the interest plays very important role in such cases. Because total prohibition on use of social media is not possible but marginal restrictions are required there too for its proper channelization and use of social media. Freedom of speech and expression nevertheless as guaranteed by our Supreme Constitution but it does not mean as individual interest is superior to Social or public interest.
If the social security and basic values and norms, morals of the society are not followed, law has to play great role in controlling the conduct of the society. And Cyber law in India as moving in full swing of digitalisation but question is that do we have infrastructural facilities and redress grievance mechanism to resolve the dispute arose because the mis-use of Internet and social Media and Networking platform.

Hypothesis

The main issue related to topic is that due to over use of social media it has created chaos, disturbances among the individuals and social life. The repercussions of social media reached to such an extent that it interferes in individual, personal and social life and sometimes even takes life of people or tend them to commit suicide.

1) Cyber and other laws in India are adequate or efficient to curb the social media crime and online harassment.
2) Due to lack of awareness among the adolescents and youngsters, there is sharp rise in social media crime.
3) As many form and modes of the cyber crime are new and even evolving so in India there is no proper provision in cyber law which may anticipate it properly. As due to advancement of technology, the gravity of the cyber crime would be high. At the same time in India, the response to anticipate cyber crime is not that much quick and fast responsive.
4) Due to Low awareness among the society about the cyber and social media crime and its enforcement mechanism, so most of the time cyber crime would remain unreported, and in some cases due to flaws in investing agency culprit of cyber crime remain unpunished.

Utility of the Study

1) This study of social media and its repercussions on society would be useful to technologically addicted society, where mostly people using social media through internet

and mobile gadgets and further it would be difficult to spend some hours without the use of Cell phone and cyber social media or social connecting platforms. In present state, majority of people using Facebook, LinkedIn, Twitter, Instagram, Whatsapp, Snapchat knowingly or unknowing they commit wrong, so through the medium of this study an attempt will be made to create awareness among the general public about the proper usage of social media.

2) As this study will also be useful to know about what are the causes behind the commission of cyber crime and how to fix them. As through this research I am also going to study the loopholes in the present cyber and IT related laws. And also to make the proper suggestions for the proper implantation and execution of the cyber and IT laws.

3) This study also going to make the proper suggestion and recommendation as to which kinds of changes are required in our present Cyber Social Laws (IT Act) and related rules comparing laws of the different countries.

4) This study will also be useful to concerned government while framing different policies for social media and cyber Laws.

Research Methodology

Data collection is a crucial step in a research methodology.

In order to achieve the goal of completion of my research I will use the following methods of collecting data viz., primary data which would further consist of analytical method, case method, observations, interviews, survey questionnaire, etc. Survey questionnaire shall be conducted based age group wise on use of social media. This will be based on various age groups & varied other factors.

Secondary data collection will include Act of parliament and rules framed, personal documents, public documents, and published records such as journals, magazines, newspaper internet, websites etc.

Limitation of Study

Issues related to misuse of social media is global issue but as my research study is limited to India only. As laws related to cyber social media is applicable to all over the territory of nation, IT Act 2000 is also applicable to all over the territory of India. As our country is so big in size, and use and misuse are different depending on various factors so it’s not feasible to take inputs from all the segment of the uses of social media.

As the problems created due to over use and adequate awareness social media and problems arose is new one and except the newspaper reporting nowhere could get the references, so have to rely more on newspaper reporting.

Research Gap

Social media and crime related to it are evolving day by day, so whatever research study are already been made not become absolute useful in today's context. As the new technology is evolving as the same times new modes and new form of cyber crime are to be evolved. So to conduct the research study on social media and related laws is absolutely necessary for the betterment of society.

New form of cyber crime are coming out like blue whale game or pornography still in practise so new form to committing the offence are searched so to conduct the research study and to make the proper suggestions and recommendations are necessary.

Review of Literature

This era is of information, communication, internet and social media. Now days people using the social media through mobile and gadgets for various purposes. As smart phones and gadgets are known for its highly usefulness in today's cyber world, where the people wanted to connect with each another by sitting at the distinct places, quickly to communicate the information, exchange of thought and expression. But one has to remember that this technological boon has to be used with some regulation and for the welfare of individual and society.

But recently we can observe that rather than its use social media through its devises are misused time and again and then law have to play a great role because law is devise to control the unwarranted conduct of the people in the society. Therefore I have chosen my research topic as "Channelization of social media through cyber law and its enforcement challenges in India"**.** Where the real need of research is required because sometimes ago smart phones looked as device and to make telephonic call and only text massages but now the same smart phones with multitasking functions leads towards taking the lives of adolescents and youngsters, interfering in once life resulting breaking marital relation, tempts to commit suicide, etc. In our country due to inability and inadequacy of proper cyber laws framework and government policies, and even for the executing authority many problem arose relating to social media crime and associated wrongs. Following literature has been referred:

1) In the book titled "Prevention of Cyber Crimes and Fraud Management"[1] described about the concept and technique of cyber crime, channels of cyber crimes and different methods of cyber crime. In this book it is also described computer fraud protection, incident of cyber

[1] Institute of Banking and Finance, Macmillan education, 2nd Edition (2017), ISBN 978-93-86263-67-4

crime, and cyber laws and regulatory framework. It is also mentioned about role of national level institutions like CERT-IN and NCIIP in cyber security.

2) In the book titled "Information Technology- Law and Practise"[2]

Author has described and written about various concept of cyber crime. Author has specifically commented on the efficacy of Information Technology Act, 2000. Author has specifically written that Information Technology Act, 2000 is not to be read in isolation. It has to be read and understood in relation with the other Codes, Acts, rules and regulations. This book is an honest attempt to disseminate knowledge about information technology law by highlighting the legislative spirit behind the enactment of Information Technology Act, 2000

The book has divided into two parts: part one is a commentary on the Act. It is a commentary with difference- each and every section, sub section, clause and sub- clause of the Act has been critically analysed with the help of numerous illustrations, concept and examples. The emphasis is on at the practical application of law rather than merely generating an academic interest in the subject.

3) In the Book titled, "Cyber Law and Cyber Crimes"[3] author has written about his experiences as cyber crime advocate. He specifically mentioned that, lesser IT related crimes are possible if mass awareness about law amongst the IT users is created. Major focus of this book is on History of cyber crimes, various concepts like sensitive personal information, reasonable security practise- International Practise, etc. Author has also written about Cyber terrorism, Phishing/Vishing, Email bombing, Cyber Bullying and stalking and law as applicable and illustrations, etc. Author described concept of pornography, child pornography, online gambling, defamation, also written about jurisdiction issues, challenges of fighting cybercrime, etc.

4) The Book titled "Cyber Law Simplified"[4] in which author has contributed a lot in the field of Information and technology and cyber law and really simplified the concept and provisions and various dimensions of Cyber Law. Author has given the definition of cyber crime and also discusses about history of cyber crime in a very simple and interesting manner. Author has written about power of arrest without warrant under the IT Act, 2000: A critique, where

[2] Vakul Sharma, Information and Technology- Law and practise, Universal Law Publishing co, Third edition 2013, ISBN: 978-93-50350003

[3] Adv. Prashant Mali, Cyber Law and Cyber Crimes, Snow White Publications, Second Edition 2015, ISBN: 978-93-5039-152-5

[4] Vivek Sood, Cyber Law Simplified, McGraw Hill Education (India) Private Limited, Twelfth Reprint 2013, ISBN-10:0-07-043506-5

described about the Sec. 80 of the IT Act, 2000. He has also written about Forgetting the Line Between cognizable and non-cognizable offences, Checks and Balances against arbitrary arrest, and arrest for about to commit an offence under IT Act.

Author has also written in this book about various offences like Hacking, Teenage web vandals, defamation, cyber pornography, cyber fraud and cyber cheating, jurisdictional issues. All these offences described with various cases, illustrations from Newspaper reporting's.

Besides this, authors has also written and discusses about contract in the InfoTech world with reference to Indian Contract Act, 1872, Jurisdiction in cyber crime, Battling cyber squatters and copyright protection in the cyber world, E-commerce taxation: Real problems in the virtual world, Digital signature, certifying authorities and E-governance. Author has also discussed in this book The Indian Evidence Act, 1972 versus Information Technology Act, 2000. And very distinctly has written about concept of protection of Cyber Consumers in India as which is very useful information in today's time.

5) In the Research paper titled "Cyber bullying: an Indian perspective"[5] author has written about stalking, effects and consequences, remedies available under Criminal Laws and Information Technology Act, and its prevention. The objective of the paper is to discuss international laws prevailing and provision of cyber bullying in other countries while highlighting the need for defining cyber bullying from Indian perspective, making specific regulations against it, and the experts needed in making for such laws.

   Author has written about various kinds and new forms of cyber crimes and the reasons for cyber bullying, types of cyber bullying, modes of cyber bullying, and consequences of it. Authors also discussed about various legal cases of cyber crime as illustrations. At the same time it is also discussed about the legal remedies available in the Information Technology Act, 2000, and under Indian Penal Code, 1860.

6) In research article "Legal Implications of Cyber Crimes on Social Networking Websites"[6] has written about how laws enacted under different statutes regulate cyber crimes occurring on social networking websites. Even though it appears that social media has got the world closer,

[5] Ashna Mehta & Rishabh Jaiswal, Cyber bullying: an Indian perspective, International Journal of Legal Insight, Volume-I, Issue-I, ISSN: 2456-3595 (E-copy)

[6] Nikita Barman, Legal Implications of Cyber Crimes on Social Networking Websites, International Journal of Scientific and Research Publications, Volume 5, Issue 12, December 2015, ISSN 2250-3153 (E-Copy) (http://www.ijsrp.org/research-paper-1215/ijsrp-p4850.pdf)

there is a flipside to it. Many offenders use this vulnerable means to commit offences related to computer, computer system or computer networks.

Social Networking websites are used as a means for communication and interaction among people across the globe, be it reuniting with old ones or meeting new people. The hitch with this kind of social media involves several other aspects, rather than just meeting new people and exchange of ideas. The cyber offenders use this as a medium to commit offences related to privacy, defamation, and misrepresentation of identity or cheating by personation, obscenity, sending offensive messages, cyber terrorism so on and so forth.

Author has also mentioned that, many people have fallen prey to these offences due to lack of awareness and overuse of these social networking websites. The fear of lagging behind in this technology race has led to the increase in the statistics of these crimes. The researcher would want to delve into the main components of the offences relating to technology which take place on an everyday basis on these social networking websites. Also, the researcher also wanted to examine the cases relating to the cyber offences happening on these social networking websites, which have got the attention of the public. To conclude the researcher would want to make observations about how law and the courts have together to worked in providing justice to the victim in cyber crime world and social media.

7) Report on Online Harassment By Norton by Symantec [7]

The online research (Survey) conducted by the Norton by Symantec in the summer of 2017, with the objective of understanding Indian exposure to online harassment. From this research study it has come out that 8 out of 10 people surveyed have experienced some form of online harassment in India. The most common being abuse and insults (63 percent) and malicious gossip and rumours (59 per cent).

In this research study it is found that, incidence of online harassment was particularly high for people in the under 40's age group, with 65 percent reporting online abuse and insults. 87 percent of people with disabilities or poor mental health and 77 per cent of those with weight issues reported experiences of abuse or insults online. While the survey shows that men and women reported similar experiences of online harassment, it was apparent that men under 40 and people with disabilities and poor mental health were more susceptible to some of the more serious threats. As staggering 49 per cent of men and 71 per cent of people with

[7] Norton study reveals widespread online harassment in India (http://www.dqchannels.com/norton-study-reveals-widespread-online-harassment-in-india/)

disabilities or poor mental health reported receiving threats of physical violence, while 50 per cent of men and 67 per cent of people with disabilities or poor mental health reported at least one incidence of cyber bullying.8

In this research study conducted by Norton by Symantec also found that the four countries from the Asia-Pacific region which were surveyed (India, Australia, New Zealand, and Japan), India recorded the highest level of online harassment, with 45% of the respondents having experienced cyber stalking. People in India spending more time on social media platforms and mobile applications, it is important that online users take basic precautions to protect their safety and security to avoid unwanted contact.

As per this study, in 42% of the cyber bullying cases and in nearly half of all instances of cyberstalking where the victim was a woman, the perpetrator was a stranger. Seventy-one per cent of people with disabilities or poor mental health reported receiving threats of physical violence, while 67% people were cyber bullied.

Threats of physical violence experienced by the respondents was highest in Mumbai (51%), followed by Delhi (47%), and Hyderabad (46%). Similarly, online sexual harassment was reported to be highest in Delhi and Mumbai (43%), followed by Kolkata (37%) and Bengaluru (36%).9

All the statistics has been given by the research study conducted, one could say that there is grossly misuse of social media networking in India and time has come to make the appropriate arrangement to prevent the misuse of it.

8) In research paper titled "Legal Study on The Protection of Children in Social Network: Special Reference to Indian Law[10]" research here observed that now a day cyberspace is the place where children grow and learn, it is the duty of the every regulator to secure the children in the cyberspace. Privacy and security are the great concern while using social networking.

Children are worst affected by the ill-practice of social networking. It is need of the hour to look into the legal aspects of the social networking and the child. Protecting the child from the cyber predators is one of the key concerns in India. This article throws light on the

[8] https://tech.economictimes.indiatimes.com/news/internet/8-out-of-10-indians-have-encountered-online-harassment/60937986 (Referred on dated 27 Oct, 2017)

[9] http://www.thehindu.com/news/national/8-out-of-10-indians-have-faced-online-harassment/article19798215.ece (Dated 27 Oct, 2017)

[10] R. Kesavamoorthy, Legal Study On The Protection Of Children In Social Network: Special Reference To Indian Law, IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 15, Issue 1 (Sep. - Oct. 2013), PP 16-21 e-ISSN: 2279-0837, p-ISSN: 2279-0845. (www.Iosrjournals.Org)

offenses committed to the child in the virtual space. It embarks upon various legal aspects related to the child and the use of social networking. This paper meticulously analyzes the lacunae in the legal framework and also brings out the problem solving solutions

9) In the research Article titled, "CYBER THREATS IN SOCIAL NETWORKING WEBSITES",[11] author has written about social networking websites offer advanced technology of interaction and communication, they also raise new challenges regarding privacy and security issues. In this paper, researcher has briefly described the social networking web sites, summarized their taxonomy, and highlighted the crucial privacy and security issues giving some essential anti threats strategies with the perspective of the future of the social networking websites.

Author thinks that the advancement of new technology in general and social websites in particular will bring new security risks that may present opportunities for malicious actors, key loggers, Trojan horses, phishing, spies, viruses and attackers. Information security professionals, government officials and other intelligence agencies must develop new tools that prevent and adapt to the future potential risks and threats. It can also safely manipulate the huge amount of information in the internet and in the social websites as well. Author in his paper has also written about taxonomy of social network, cyber threats in social networking websites, privacy related threats, traditional Networks Threats, anti threats strategies, future trends of social networking websites, risks management and threats vulnerabilities.

10) In the Research Paper titled, "Impact of Cyber Crimes on Social Networking Pattern of Girls"[12] Researcher has written about social networking sites have become an integral part of the lives of most of the youth today. It has encouraged new ways to communicate and share information. The relative freedom afforded by social networking sites has caused concern regarding the potential of its misuse by individual patrons. This questions the safety and security of the users, especially girls who are more preyed upon particularly in relation to online sexual predators. These sorts of cyber crimes leave an everlasting scar in the minds of the users and change the way in which they communicate in the social networking sites and

[11] Wajeb Gharibi and Maha Shaabi, CYBER THREATS IN SOCIAL NETWORKING WEBSITES, International Journal of Distributed and Parallel Systems (IJDPS) Vol.3, No.1, January 2012, (http://airccse.org/journal/ijdps/papers/0112ijdps09.pdf)

[12] M. Neela Malar, Impact of Cyber Crimes on Social Networking Pattern of Girls, International Journal of Internet of Things 2012, 1(1): 9-15 DOI: 10.5923/j.ijit.20120101.02, (http://article.sapub.org/pdf/10.5923.j.ijit.20120101.02.pdf)

sometimes even force them to completely opt out of the social networking sites. This research paper deals with how girls are affected by cyber crimes in social networking sites and how those crimes impact their social networking pattern.

11) In the Research paper titled "Analytical Study of Cyber Threats in Social Networking"[13] researcher has written about social networking service (SNS) or Social networking site is a platform to build social networks and social relations among people who share similar interest, activities or other real-time connections. A cyber threat is referred as unauthorized access to the system or network using communication pathway. Cyber threat can be either intentional or unintentional. Such threats to control system can come from numerous sources such as intruders, terrorist group, unsatisfied employees etc. To protect such threats, it is necessary to create cyber-barrier. In this paper author tried to investigate the cyber threats in social networking. As he has gone through history of social networking website when started and classify their category, possible threats related to social network and ways to prevent such threats.

Researcher has observed that, Social networking site provides an advantage of connecting and interacting with people from anywhere and anytime. It also increases the chances of security breach. In this paper, researcher briefly described the usage of social networking website, security breaches and countermeasures to prevent vulnerabilities.

[13] Seema D. Trived, Ms. Chandani Kathad, Analytical Study Of Cyber Threats In Social Networking, Proceedings of International Conference on Computer Science Networks and Information Technology Held on 23rd-24th January 2016, in Pattaya, ISBN: 9788193137338.
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8) M. Neela Malar, Impact of Cyber Crimes on Social Networking Pattern of Girls, International Journal of Internet of Things 2012, 1(1): 9-15 DOI: 10.5923/j.ijit.20120101.02, (http://article.sapub.org/pdf/10.5923.j.ijit.20120101.02.pdf)

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